

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

(E-Filed: March 19, 2008)

No. 99-541V

_____)	
LYNN MILLER,)	
)	TO BE PUBLISHED
Petitioner,)	
)	Stipulated Damages; Hepatitis B
v.)	Vaccine; Alleged Injuries
)	Include Headaches, Confusion,
SECRETARY OF THE DEPARTMENT OF)	and Joint Pain
HEALTH AND HUMAN SERVICES,)	
)	
Respondent.)	
_____)	

STIPULATED DAMAGES DECISION

On July 29, 1999, Lynn Miller filed a petition for vaccine compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. § 300aa-10 to 34 (the “Vaccine Program”). The petition seeks compensation for injuries allegedly related to petitioner’s receipt of the hepatitis B vaccine on June 25, 1992.¹

On March 12, 2008, counsel for both parties filed a stipulation, stating that a decision should be entered awarding compensation. The parties stipulated that petitioner shall receive the following compensation:

A lump sum of \$25,000.00 in the form of a check payable to petitioner. This amount represents compensation for all damages that would be available under 42 U.S.C. § 300aa-15(a).

The undersigned approves the parties’ stipulation. Accordingly, an award of compensation should be made in the form of a check payable to petitioner in the amount of \$25,000.00. The clerk of court **SHALL ENTER JUDGMENT** in accordance with the terms

¹ Among petitioner’s alleged injuries were jaw and facial pain, headaches, confusion, memory problems, dizziness, joint pain, and depression. Stipulation ¶ 4.

of the parties' stipulation.²

IT IS SO ORDERED.

s/Patricia E. Campbell-Smith
Patricia E. Campbell-Smith
Special Master

² Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review of this decision. Then, under the Vaccine Rule 12(a), the parties may expedite payment by filing an election to accept judgment.

IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS

LYNNE MILLER,)	
)	
Petitioner,)	No. 99-541V
v.)	Special Master Campbell-Smith
)	
SECRETARY OF HEALTH)	
AND HUMAN SERVICES,)	
)	
Respondent.)	

STIPULATION

The parties hereby stipulate to the following matters:

1. Lynn Miller, petitioner, filed a petition for vaccine compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. § 300aa-10 to 34 (the "Vaccine Program"). The petition seeks compensation for injuries allegedly related to petitioner's receipt of the hepatitis B vaccine, which vaccine is contained in the Vaccine Injury Table (the "Table"), 42 C.F.R. § 100.3 (a)(VIII).
2. Petitioner received a hepatitis B vaccination on June 25, 1992.
3. The vaccination was administered within the United States.
4. Petitioner alleges that she sustained the first symptom or manifestation of the onset of jaw and facial pain, headaches, confusion, memory problems, dizziness, and joint pain one week after her June 25, 1992 hepatitis B vaccination. She further alleges that she suffered depression, blurred vision, dizziness, fatigue, memory problems, and trigeminal neuralgia as sequelae of her injury.
5. Petitioner represents that there has been no prior award or settlement of a civil action for damages on her behalf as a result of her condition.

6. Respondent denies that petitioner suffered the onset of jaw and facial pain, confusion, memory problems, dizziness, and joint pain as the result of her hepatitis B vaccination and denies that petitioner's current disabilities are sequelae of her alleged vaccine-related injury.

7. Maintaining their above-stated positions, the parties nevertheless now agree that the issues between them shall be settled and that a decision should be entered awarding the compensation described in paragraph 8 of this Stipulation.

8. As soon as practicable after an entry of judgment reflecting a decision consistent with the terms of this Stipulation, and after petitioner has filed an election to receive compensation pursuant to 42 U.S.C. § 300aa-21(a)(1), the Secretary of Health and Human Services will issue the following vaccine compensation payment:

A lump sum of \$25,000.00 in the form of a check payable to petitioner. This amount represents compensation for all damages that would be available under 42 U.S.C. § 300aa-15(a).

9. As soon as practicable after the entry of judgment on entitlement in this case, and after petitioner has filed both a proper and timely election to receive compensation pursuant to 42 U.S.C. § 300aa-21(a)(1), and an application, the parties will submit to further proceedings before the special master to award reasonable attorneys' fees and costs incurred in proceeding upon this petition.

10. Payments made pursuant to paragraph 8 and any amounts awarded pursuant to paragraph 9 of this Stipulation will be made in accordance with 42 U.S.C. § 300aa-15(i), subject to the availability of sufficient statutory funds.

11. In return for the payments described in paragraphs 8 and 9, petitioner, in her individual capacity, and on behalf of her heirs, executors, administrators, successors or assigns,

does forever and fully expressly release, acquit and discharge the Secretary of Health and Human Services and the United States of America from any and all actions, causes of action, agreements, judgments, claims, damages, loss of services, expenses and all demands of whatever kind or nature on account of, or in any way growing out of, any and all known or unknown personal injuries to or death of petitioner resulting from, or alleged to have resulted from, the hepatitis B vaccinations administered on June 25, 1992, as alleged by petitioner in a petition for vaccine compensation filed on or about July 29, 1999, in the United States Court of Federal Claims as petition No. 99-541V.

12. If petitioner should die prior to receiving the payment described in paragraph 8, this agreement shall be considered voidable upon proper notice to the Court on behalf of either or both of the parties.

13. If the special master fails to issue a decision in complete conformity with the terms of this Stipulation or if the Court of Federal Claims fails to enter judgment in conformity with a decision that is in complete conformity with the terms of this Stipulation, then the parties' settlement and this Stipulation shall be null and void at the sole discretion of either party.

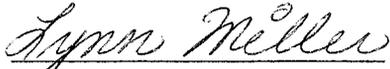
14. This Stipulation expresses a full and complete settlement of liability and damages claimed under the National Childhood Vaccine Injury Act of 1986, as amended, except as otherwise noted in paragraph 9 above. There is absolutely no agreement on the part of the parties hereto to make any payment or to do any act or thing other than is herein expressly stated and clearly agreed to.

15. All rights and obligations of petitioner hereunder shall apply equally to her successors and assigns.

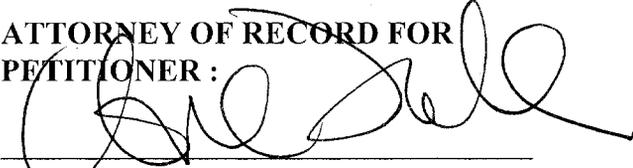
END OF STIPULATION

Respectfully submitted,

PETITIONER:


LYNN MILLER

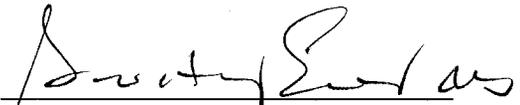
**ATTORNEY OF RECORD FOR
PETITIONER:**


ANNE C. TOALE, ESQUIRE
Maglio, Christopher & Toale
1751 Mound Street
Second Floor
Sarasota, FL 34236
941-952-5242

**AUTHORIZED REPRESENTATIVE
OF THE ATTORNEY GENERAL:**


VINCENT J. MATANOSKI
Acting Deputy Director
Torts Branch
Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, D.C. 20044-0146

**AUTHORIZED REPRESENTATIVE OF
THE SECRETARY OF HEALTH AND
HUMAN SERVICES:**


GEOFFREY EVANS, M.D.
Director, Division of
Vaccine Injury Compensation
Healthcare Systems Bureau
U.S. Department of Health
and Human Services
5600 Fishers Lane
Parklawn Building, Stop 11C-26
Rockville, MD 20857

**ATTORNEY OF RECORD FOR
RESPONDENT:**


ALTHEA WALKER DAVIS
Senior Trial Counsel
Torts Branch
Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, D.C. 20044-0146
(202) 616-0515

Dated: 12 March 2008